

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**OSCAR COLMENARES-GONZALEZ and
COLMENARES RODRIGUEZ INC.,**

Defendants.

8:08CR151

ORDER

This matter is before the court on the defendants' fifth motion to continue trial (Doc. 104). Defendant has filed an updated affidavit or declaration regarding speedy trial, as required by [NECrimR 12.1 and/or 12.3](#). For good cause shown, trial will be continued to May 12, 2009.

IT IS ORDERED that the motion is granted, as follows:

1. The jury trial now set for March 17, 2009 is continued to **Tuesday, May 12, 2009.**

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **March 17, 2009 and May 12, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act due to defense counsel's medical condition and because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

DATED March 6, 2009.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge